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UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 DURK BANKS, et al.,

17 Defendants.

No. CR 24-621(B)-MWF

GOVERNMENT'S OPPOSITION TO
DEFENDANT BANKS' MOTION FOR EARLY
RETURN OF JENCKS ACT MATERIAL

Hearing Date: November 18, 2025

Hearing Time: 1:30 p.m.

Location: Courtroom of the
Hon. Michael W.
Fitzgerald

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21 Plaintiff United States of America, by and through its counsel
22 of record, the Acting United States Attorney for the Central District
23 of California and Assistant United States Attorneys Ian V. Yanniello,
24 Gregory W. Staples, and Daniel H. Weiner, hereby files its Opposition
25 to Defendant Banks' Motion for Early Return of Jencks Act Material.
26 (Dkt. 241.) The Motion has been joined by defendants Deandre
27 Dontrell Wilson, David Brian Lindsey, and Asa Houston.
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1 This Opposition is based upon the attached memorandum of points
2 and authorities, the files and records in this case, and such further
3 evidence and argument as the Court may permit.

4 Dated: October 27, 2025

Respectfully submitted,

5 BILAL A. ESSAYLI
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6 ALEXANDER B. SCHWAB
7 Assistant United States Attorney
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9 /s/

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1 **I. THE GOVERNMENT HAS ALREADY PRODUCED A SIGNIFICANT VOLUME OF**
2 **JENCKS ACT MATERIALS AND WILL CONTINUE TO COMPLY WITH ITS**
3 **DISCOVERY OBLIGATIONS**

4 Defendant seeks a Court-imposed deadline of 45 days before trial
5 for the government to produce all Jencks Act material. (Motion at
6 1.) His request should be denied, as the government has already
7 produced a substantial volume of Jencks Act material --- including
8 numerous statements of cooperating witnesses --- and will continue to
9 comply with its discovery obligations in a timely manner to ensure a
10 fair trial for both parties.¹

11 Under 18 U.S.C. § 3500 (the Jencks Act) and Rule 26.2, both
12 parties must disclose prior statements by witnesses relating to the
13 subject matter of their testimony *after* the witness has testified.
14 See United States v. Jones, 612 F.2d 453, 455 (9th Cir. 1979)
15 (“Appellant’s reliance on the Jencks Act as a pre-trial discovery
16 tool is completely misplaced. Subsection (a) of the Act specifically
17 provides that no statement of a government witness is discoverable
18 until the witness has testified on direct examination.”); cf. id.
19 (rejecting contention that “trial court’s refusal to grant a
20 continuance deprived defense counsel of sufficient time to digest
21 the material received on the morning of trial in violation of his
22 Fifth and Sixth Amendment rights”); United States v. Washabaugh, 442
23 F.2d 1127, 1129 (9th Cir. 1971) (refusing to find a violation of due

24 ¹ The government has requested reciprocal discovery from
25 defendant on numerous occasions, but has not received any materials
26 other than those provided to the Court in connection with defendant’s
27 previous detention hearings. See, e.g., United States v. Scholl, 166
28 F.3d 964, 972 (9th Cir. 1999) (excluding undisclosed checks at trial
where defense made “‘a strategic decision to withhold the [evidence]’
until the government would be unable to fully investigate.”); United
States v. Aceves-Rosales, 832 F.2d 1155, 1156-57 (9th Cir. 1987)
 (“[defense counsel] made a strategic decision to withhold the
document until after the close of the government’s case. He and his
client must accept the risk arising from this behavior.”).

1 process or the right to effective assistance of counsel where the
2 government complied with the Jencks Act and defense counsel had time
3 to read the documents prior to cross-examination).

4 As defendant acknowledges in the Motion, the government began
5 producing Jencks Act material from anticipated government witnesses
6 in July 2025, including from multiple cooperating co-conspirators.
7 Cf. United States v. Bonilla, 615 F.2d 1262, 1264 (9th Cir. 1980)
8 (finding government may rightfully withhold identity of cooperating
9 witness until ten days before trial).² To date, the government has
10 produced over 250 pages of statements from government witnesses and
11 has already reached an agreement with the defense to produce certain
12 more-sensitive materials (some of which fall under the scope of the
13 Jencks Act, including recorded interviews of cooperating witnesses)
14 pursuant to an Attorney Eyes' Only Protective Order in the coming
15 weeks. Indeed, defendant acknowledges the government has been
16 producing Jencks Act materials on a rolling basis. (Motion at 7.)

17 The government made these early disclosures willingly and
18 without Court-imposed order, as it furthers important interests in
19 ensuring a fair and speedy trial, free from delays and inefficiencies
20 that may be caused by reserving disclosure until the last possible
21 moment. Accordingly, defendant's assertion that the "government's
22 proposed production of all Jencks Act material one week before trial
23 is inconsistent with due process, fundamental fairness, and efficient
24 trial management" misses the mark. Rather, a Court-imposed cutoff
25 date for *all* Jencks materials 45 days before trial is an
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28 ² Moreover, the government has exceeded its discovery obligations by making early production of other cooperator discovery, including *Giglio* materials such as criminal histories.

1 impracticable deadline that would prevent the government from
2 following leads in this case or responding to events that arise as
3 trial approaches. Indeed, the investigation in this matter
4 continues, as agents continue to review materials seized pursuant to
5 search warrants and follow up on any leads, including interviews with
6 anticipated witnesses (some of which may not yet be known to the
7 government that could occur up to, or even during, trial). The
8 government will produce any such materials in a timely fashion once
9 they are collected or created, consistent with its discovery
10 obligations.

11 The government is fully aware of its obligations under Brady,
12 Giglio, and the Jencks Act. It has complied with those obligations
13 and will continue to do so in a manner that ensures a fair trial.
14 The government therefore respectfully requests the Court deny
15 defendant's request for deadline of Jencks materials well in advance
16 of trial.

17 **II. CONCLUSION**

18 For the foregoing reasons, defendant's motion for early
19 production of Jencks Act materials and request for a cutoff for
20 production 45 days before trial should be denied.
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